

REMARKS:

Claims 1-12, 14, and 17-20 have been cancelled. Thus, claims 13, 15 and 16 remain pending.

The Examiner rejected claims 13, 15 and 16 under 35 U.S.C. 103(a) over Harding (U.S. Patent No. 3,650,039) in view of McNamara et al. (U.S. Patent No. 5,421,646). As amended, the sole independent claim recites a sump pump. In contrast, the Harding reference discloses a vacuum pump encased in a silverware cabinet. As a sump pump is a substantially different from a vacuum pump, in that each type of pump performs a different function in a different way to achieve a different result, the "sump pump" limitation of claim 13 is not found in any of the cited references.

Moreover, there would be no motivation to substitute a sump pump for a vacuum pump in Harding's invention. Indeed, one of average skill in the art would not desire to put within a silverware cabinet a pump that conveys fluids (often waste fluids) from a sump. For, not only would a sump pump not provide the function of removing oxygen from the cabinet as a vacuum pump would, but it also would present the possibility of leakage and the problem of access to the pump for service purposes within the confines of the cabinet. Accordingly, the combination of the cited references would not result in the invention as recited in claims 13 and 15, and there would be no motivation to include a sump pump within furniture.

In rejecting claim 16, the Examiner takes "official notice" of claim limitation "wherein said at least two screening members comprise drywall." However, there is no documentary evidence of

record to support the taking of official notice. Pursuant to MPEP 2144.03(A), official notice unsupported by documentary evidence should only be taken by the Examiner where the facts asserted to be well-known, or to be common knowledge in the art, are capable of instant and unquestionable demonstration as being well-known. The applicant respectfully submits that one of ordinary skill in the art would not "instantly" or "unquestionably" believe that cabinets for silverware or lockers are constructed from drywall because it is neither necessary nor desirable to construct furniture or lockers from drywall. In other words, it is not simply a matter of common knowledge that silverware cabinets and lockers are made with drywall *per se* (as opposed to other more suitable materials, such as wood and metal, respectively). Indeed, the applicant is not aware of any use or situation where drywall is used to construct silverware cabinets or lockers. Hence, the applicant respectfully contests that official notice can be taken of this claim limitation.

Moreover, claim 16 further specifies the "existing wall" of its base claim (claim 13). In the context of the present invention, it is clear that it is desirable to screen a sump pump using an existing wall in order to minimize additional construction. Since neither McNamara nor Harding have anything to do with existing walls of a type that are made from, for example, drywall, the combination of these references would not result in the claimed invention.

Given the amendments and remarks as noted above, the applicant respectfully believes that all pending claims are non-obvious and allowable and asks that the Examiner reconsider the rejections of record.

No fee is believed to have been incurred. Should there be any unforeseen costs, please charge our Deposit Account No. 17-0055.

Respectfully submitted,

Quarles & Brady LLP

A handwritten signature in black ink, appearing to read 'G. Milczarek-Desai', with a stylized, cursive script.

Gavin J. Milczarek-Desai  
Reg. No. 45,801

(520) 770-8716 phone  
(520) 770-2235 fax